

FILED ON DEMAND

RECEIVED

FEB 15 2017

CLERK, U.S. DISTRICT COURT  
MINNEAPOLIS, MINNESOTA

## **MEMORANDUM OF LAW**

1). In a motion to dismiss under Fed. R. Civ. P. 12(b)(1), plaintiffs bear the burden of demonstrating the Court's subject matter jurisdiction. As the Supreme Court explained in *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (citations omitted): Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree. It is to be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction. When confronted with a motion to dismiss for lack of subject matter jurisdiction, "the plaintiff has the obligation to establish jurisdiction by competent proof." *Sapperstein v. Hager*,

Page 1 of 10

SCANNED

FEB 15 2017

U.S. DISTRICT COURT MPLS

188 F.3d 852, 855 (7<sup>th</sup> Cir. 1999). Because plaintiffs here have failed to meet that obligation, their Complaint should be dismissed.

2). William Joseph Mooney and Joni Therese Hansen are not and has not intended to be a **federal State citizen or Resident** as set forth and defined in the **Buck Act, Title 4 USC §105-110.**

3). Article XI.

"The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State".

US citizens (FEDERAL CITIZENS) are FOREIGN to the several States and SUBJECTS of the FEDERAL UNITED STATES/STATE of NEW COLUMBIA/DISTRICT OF COLUMBIA.

Attorneys are considered FOREIGN AGENTS under the FOREIGN AGENTS REGISTRATION ACT (FARA) and are SUBJECTS of the BAR ASSOCIATION.

4). **Maxim of Law:** "Disparata Non Debent Jungi"; Latin: Dissimilar things ought not to be joined. PAPER to PAPER and flesh to flesh.... BUT NOT, PAPER to flesh or flesh to PAPER. The Maxim of Law of "like kind".

flesh = a living private woman, a living private man jane doe, John Doe

PAPER = a fictitious contract entity, an artificial person, corporation.

**Penhallow v. Doane's Administrators (3 U.S. 54; 1 L.Ed. 57; 3 Dall. 54), SUPREME COURT RULING – NO CORPORATE JURISDICTION OVER THE NATURAL WO/MAN**

Government Is Foreclosed from Parity with Real People;

Supreme Court of the United States 1795, "Inasmuch as every government is an artificial person, an abstraction, and a creature of the mind only, a government can interface only with other artificial persons. The imaginary, having neither actuality nor substance, is foreclosed from creating and attaining parity with the tangible. The legal manifestation of this is that no government, as well as any law, agency, aspect, court, etc. can concern itself with anything other than corporate, artificial persons and the contracts between them." Supreme Court Reporter S.C.R. 1795, (3 U.S. 54; 1 L.Ed. 57; 3 Dall. 54)

5). Article 1, Section 8, Clause 17 "To exercise exclusive legislative jurisdiction in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings;

The only provision in the Constitution which permits jurisdiction to be vested in the United States is found in Art. I, Sec. 8, Cl. 17, which provides the mechanism for a voluntary cession of jurisdiction from any State to the United States. When the Constitution was adopted, the United States had jurisdiction over no lands within the States, possessing jurisdiction only in the lands encompassed in the Northwest Territories. Shortly thereafter, Maryland and Virginia ceded jurisdiction to the United States for Washington, D.C. As time progressed thereafter, the States at various times ceded jurisdiction to federal enclaves within the States. Today, the territorial jurisdiction of the United States is found only in such ceded areas, which encompass Washington, D.C., the federal enclaves within the States, and such territories and possessions which may be now owned by the United States.

The above conclusion is not the mere opinion of the defendants in this brief, but it is likewise that of the federal government itself. In June 1957, the government of the United States published a work entitled Jurisdiction Over Federal Areas Within The States: Report of the

Part II, which report is the definitive study on this issue. Therein, the Committee stated:

"The Constitution gives express recognition to but one means of Federal acquisition of legislative jurisdiction -- by State consent under Article I, section 8, clause 17 .... Justice McLean suggested that the Constitution provided the sole mode for transfer of jurisdiction, and that if this mode is not pursued, no transfer of jurisdiction can take place," Id., at 41.

"It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, the Federal Government possesses no legislative jurisdiction over any area within a State, such jurisdiction being for exercise by the State, subject to non-interference by the State with Federal functions," Id., at 45.

"The Federal Government cannot, by unilateral action on its part, acquire legislative jurisdiction over any area within the exterior boundaries of a State," Id., at 46.

"On the other hand, while the Federal Government has power under various provisions of the Constitution to define, and prohibit as criminal, certain acts or omissions occurring anywhere in the United States, it has no power to punish for various other crimes, jurisdiction over which is retained by the States under our Federal-State system of government, unless such crime occurs on areas as to which legislative jurisdiction has been vested in the Federal Government," Id., at 107.

Thus, from an abundance of case law, buttressed by this lengthy and definitive government treatise on this issue, the "jurisdiction of the United States" is carefully circumscribed and defined as a very precise portion of America. The United States is one of the 51 jurisdictions existing on this continent, excluding Canada and its provinces.

## **FEDERAL CRIMINAL JURISDICTION**

It is a well established principle of law that all federal "legislation applies only within the territorial jurisdiction of the United States unless a contrary intent appears;" see *Caha v. United States*, 152 U.S. 211, 215, 14 S.Ct. 513 (1894); *American Banana Company v. United Fruit Company*, 213 U.S. 347, 357, 29 S.Ct. 511 (1909); *United States v. Bowman*, 260 U.S. 94, 97, 98, 43 S.Ct. 39 (1922); *Blackmer v. United States*, 284 U.S. 421, 437, 52 S.Ct. 252 (1932); *Foley Bros. v. Filardo*, 336 U.S. 281, 285, 69 S.Ct. 575 (1949); *United States v. Spelar*, 338 U.S. 217, 222, 70 S.Ct. 10 (1949); and *United States v. First National City Bank*, 321 F.2d 14, 23 (2nd Cir.

1963). And this principle of law is expressed in a number of cases from the federal appellate courts; see *McKeel v. Islamic Republic of Iran*, 722 F.2d 582, 589 (9th Cir. 1983) (holding the Foreign Sovereign Immunities Act as territorial); *Meredith v. United States*, 330 F.2d 9, 11 (9th Cir. 1964) (holding the Federal Torts Claims Act as territorial); *United States v. Cotroni*, 527 F.2d 708, 711 (2nd Cir. 1975) (holding federal wiretap laws as territorial); *Stowe v. Devoy*, 588 F.2d 336, 341 (2nd Cir. 1978); *Cleary v. United States Lines, Inc.*, 728 F.2d 607, 609 (3rd Cir. 1984) (holding federal age discrimination laws as territorial); *Thomas v. Brown & Root, Inc.*, 745 F.2d 279, 281 (4th Cir. 1984) (holding same as *Cleary*, *supra*); *United States v. Mitchell*, 553 F.2d 996, 1002 (5th Cir. 1977) (holding marine mammals protection act as territorial); *Pfeiffer v. William Wrigley, Jr., Co.*, 755 F.2d 554, 557 (7th Cir. 1985) (holding age discrimination laws as territorial); *Airline Stewards & Stewardesses Assn. v. Northwest Airlines, Inc.*, 267 F.2d 170, 175 (8th Cir. 1959) (holding Railway Labor Act as territorial); *Zahourek v. Arthur Young and Co.*, 750 F.2d 827, 829 (10th Cir. 1984) (holding age discrimination laws as territorial); *Commodities Futures Trading Comm. v. Nahas*, 738 F.2d 487, 493 (D.C.Cir. 1984) (holding commission's subpoena power under federal law as territorial); *Reyes v. Secretary of H.E.W.*, 476 F.2d 910, 915 (D.C.Cir. 1973) (holding administration of Social Security Act as territorial); and *Schoenbaum v. Firstbrook*, 268 F.Supp. 385, 392 (S.D.N.Y. 1967) (holding securities act as territorial). This was perhaps stated best in *Caha v. United States*, 152 U.S., at 215, where the Supreme Court stated as follows:

**"The laws of Congress in respect to those matters do not extend into the territorial limits of the states, but have force only in the District of Columbia, and other places that are within the exclusive jurisdiction of the national government."**

- 6).Maxims in Law; "Truth is Expressed in the Form of an Affidavit", & "An Unrebutted Affidavit stands as Truth in the Matter".
- 7)."An attorney for the plaintiff cannot admit evidence into the court. He is either an attorney or a witness". (*Trinsey v. Pagliaro* D.C.Pa. 1964, 229 F. Supp. 647)
- 8)."Statements of counsel in brief or in argument are not sufficient for motion to dismiss or for summary judgment," *Trinsey v. Pagliaro*, D. C. Pa. 1964, 229 F. Supp. 647. Federal Rules of Evidence.... there must be a competent first hand witness (a body). There has to be a real person making the complaint and bringing evidence before the

Court. Corporations are paper and can't testify.

"Manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case." United States v. Lovasco (06/09/77) 431 U.S. 783, 97 S. Ct. 2044, 52 L. Ed. 2d 752,

9). Porter v. Porter, (N.D. 1979 ) 274 N.W.2d 235 ñ The practice of an attorney filing an affidavit on behalf of his client asserting the status of that client is not approved, inasmuch as not only does the affidavit become hearsay, but it places the attorney in a position of witness thus compromising his role as advocate.

10)."Where there are no depositions, admissions, or affidavits the court has no facts to rely on for a summary determination." Trinsey v. Pagliaro, D.C. Pa. 1964, 229 F. Supp. 647.

11). 1818: U.S. v. Bevans, 16 U.S.336. Establishes two separate jurisdictions within the United States Of America: 1. The "federal zone" and 2. "the 50 States". The I.R.C. only has jurisdiction within the "federal zone".

"The exclusive jurisdiction which the United States have in forts and dock-yards ceded to them, is derived from the express assent of the states by whom the cessions are made. It could be derived in no other manner; because without it, the authority of the state would be supreme and exclusive therein," 3 Wheat., at 350, 351.

12). 1883: Butchers' Union Co. v. Crescent City Co., 111 U.S. 746. Defines labor as property, and the most sacred kind of property.

"Among these unalienable rights, as proclaimed in the Declaration of Independence is the right of men to pursue their happiness, by which is meant, the right any lawful business or vocation, in any manner not inconsistent with the equal rights of others,

which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment...It has been well said that, THE PROPERTY WHICH EVERY MAN HAS IS HIS OWN LABOR, AS IT IS THE ORIGINAL FOUNDATION OF ALL OTHER PROPERTY SO IT IS THE MOST SACRED AND INVOLABLE..."

13). 1901: *Downes v. Bidwell*, 182 U.S. 244. Establishes that constitutional limits on the Congress do not apply within the "federal zone" and described where they do apply. "CONSTITUTIONAL RESTRICTIONS AND LIMITATIONS [Bill of Rights] WERE NOT APPLICABLE to the areas of lands, enclaves, territories, and possessions over which Congress had EXCLUSIVE LEGISLATIVE JURISDICTION"

14). 1945: *Hooven & Allison Co. v. Evatt*, 324 U.S. 652. Ruled that there are three distinct and separate definitions for the term "United States". The income tax only applies to one of the three definitions!

"The term 'United States' may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in the family of nations. It may designate the territory over which the sovereignty of the United States ex- [324 U.S. 652, 672] tends, or it may be the collective name of the states which are united by and under the Constitution."

15). 1970: *Brady v. U.S.*, 397 U.S. 742 at 748. Supreme Court ruled that: "Waivers of Constitutional Rights not only must be voluntary, they must be knowingly intelligent acts, done with sufficient awareness of the relevant circumstances and consequences."

16). *Long v. Rasmussen*, 281 F. 236, at 238  
"The revenue laws are a code or a system in regulation of tax assessment and collection. They relate to taxpayers, and not to non-taxpayers. The latter are without their scope. No procedures are prescribed for non-taxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither the subject nor the object of the revenue laws."

17). Pursuant to *Title 26 USC §7401*, for the production of the signed delegation of authority from the Secretary of the Treasury of the United States which authorizes or sanctions the proceedings against us by the above named government officials, employees, agents, and public officers. Not aware of any proof a copy of the signed delegation of authority from the Attorney General of the United States or your delegate directing the action against us to be commenced. *Uniform Commercial code, §3-501*.

18). All acts upon the declared status of William Joseph Mooney *Sui Juris* and Joni Therese Hansen *Sui Juris*, as that of "non-resident alien" to the Corporate Federal "United States", such agent, official, employee or public officer is directed to take Judicial Notice of *St. Louis Park Medical Center v. Lethert*, 286 F. Sup. 271 and 28 USC §2201. All IRS agents and United States Courts are thus barred from making a "status determination" with regard to federal income taxes and federal income tax laws. Consequently, if IRS agents and Courts are barred from declaring William Joseph Mooney *Sui Juris* and Joni Therese Hansen, *Sui Juris*, a "taxpayer", this is prima facie evidence that the federal income tax is voluntary. Wherefore, both IRS agents and United States Courts lack jurisdiction and the declared status of the Accused must be accepted. **See attached; Affidavit of Internal Revenue Status Change**

19). "human being" as defined by 15 U.S.C. § 17

*"The labor of a human being is not a commodity or article of commerce"*

20). "non-taxpayer" as cited in *Economy Plumbing and Heating v. United States*,

470 F.2d 585, at 589 (1972)

*"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to non-taxpayers. The latter are without their scope."*

21). The FEDERAL INCOME TAX is by definition the FEDERAL EMPLOYEES INCOME TAX, and only applies to a certain class of contracted persons as listed in Title 26 section 6331 (a), and thusly ALL entities NOT listed in said section are therefore excluded;

THE INTERNAL REVENUE SERVICE has no authority to collect from a natural man/woman and human beings who are by definition outside of the scope and jurisdiction of THE INTERNAL REVENUE SERVICE. It appears that an agent doing data entry for THE INTERNAL REVENUE SERVICE made an administrative determination that we are a citizens and residents of the United States, that we have "income" effectively connected with the U.S., that we are an "employees", etc. These determinations affect our "legal rights" and therefore would seem to possess "the elements of a reviewable order."

*See: 5 U.S.C. § 702: Right of review*

*A person suffering legal wrong because of agency action, or adversely*

*affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party.*

We reserve the right to amend anytime.

All rights reserved, without prejudice  
By: Mooney: William Joseph a.r.  
Mooney: William Joseph

All rights reserved, without prejudice  
By: Hansen: Joni Therese a.r.  
Hansen: Joni Therese